

**KANSAS DEPARTMENT OF HEALTH OF ENVIRONMENT  
DIVISION OF ENVIRONMENT  
BUREAU OF ENVIRONMENTAL REMEDIATION  
REMEDIAL SECTION**

**ANNUAL PROGRAM REPORT  
FOR THE  
VOLUNTARY CLEANUP AND PROPERTY REDEVELOPMENT PROGRAM**  
Pursuant to the requirements of K.S.A. 65-34,161 et seq.

**ACTIVITIES FROM JANUARY 1, 2011 TO DECEMBER 31, 2011**

## **BACKGROUND**

The Voluntary Cleanup and Property Redevelopment Act was enacted by the Kansas Legislature on July 1, 1997 (Kansas Statutes Annotated 65-34,161 through 65-34,174). The purpose of the Act is to allow voluntary cleanups of contaminated properties with oversight by the Kansas Department of Health and Environment to promote the transfer, redevelopment, and reuse of contaminated properties and protect public health and the environment. Article 71 of Kansas Administrative Regulations, specifically K.A.R. 28-71-1 through 28-71-12, was promulgated on June 26, 1998, officially establishing the Voluntary Cleanup and Property Redevelopment Program (VCPRP). The law and program are administered by the Kansas Department of Health and Environment (the "Department").

Under the VCPRP, voluntary parties with properties meeting the statutory criteria of low to medium priority and minimal risk can receive a "no further action" (NFA) determination from the Department. An NFA provides some protection from potential environmental liability. Properties that are adjacent to contaminated sites but did not contribute to the contamination may also receive a no further action determination. The VCPRP uses a streamlined approach to investigate and cleanup properties in an expeditious manner, thereby encouraging the redevelopment or enhancement of such properties. Clearly defined cleanup standards identifying the extent of cleanup have been developed and are provided to the voluntary party early in the program so that time and costs involved in cleanup can be determined. The VCPRP is truly voluntary and is designed for industries and businesses to properly address contamination on their properties through a private/state partnership. There are no additional burdens or requirements on voluntary parties participating in the program.

A Memorandum of Agreement (MOA) between KDHE and Region VII of the United States Environmental Protection Agency became effective March 2, 2001. The MOA provides USEPA's acknowledgment of the adequacy of the Kansas VCPRP program and also provides assurances to voluntary parties that there will be no federal involvement at properties properly addressed within the VCPRP. The additional assurance from USEPA enhances the Department's actions in issuing an NFA determination letter in terms of relieving environmental liability.

## **REPORT SUMMARY**

In accordance with K.S.A. 65-34,173, the Department shall publish annually in the Kansas Register a summary of the number of applicants, the general categories of those applicants and the number of cleanups completed pursuant to this act. This annual report describes the activities accomplished by the Department in the VCPRP for the period of January 1, 2011, to December 31, 2011.

Since the inception of the Voluntary Cleanup Program on July 1, 1997, the Department has received a total of 617 completed application packages of which 607 properties have been determined eligible to participate in the program. A total of 595 voluntary agreements have been signed. Investigations have been initiated and/or completed at 524 properties. Currently, 216 properties are in one of three cleanup phases: the preliminary proposal stage, planning stage, or the active cleanup stage. Cleanups have been successfully completed at 68 properties. To date, the Department has issued a total of 224 NFA letters (38% of total signed voluntary agreements), achieving cleanup of over 2,294 acres.

A total of 27 applications were received by the VCPRP during calendar year 2011, which is approximately 2.3 applications per month. A total of 43 applications were received in 2010. Based on historical information, the maximum number of applications were received in 2000 (four years following the inception of the program) and in 2007 (prior to the economic downturn) at 73 and 62, respectively. The decrease during 2008-2011 can be attributed to the continuing difficult economic conditions experienced in Kansas since mid-2008. The number of applications received is expected to return to a normal level as the economic climate continues to improve.

NFAs are issued for properties at various points in the VCPRP process, including: 1) following cleanup of contamination; 2) following investigation that indicates no, or insignificant, contamination present; and 3) when a property is impacted but the contamination is determined to have originated from an off-property source. Since the inception of the VCPRP, approximately 22 NFAs have been issued per year. Seven (7) NFAs were issued by the Department for the 2011 calendar year as compared to 26 NFAs in the 2010 calendar year. Resource limitations including staff reductions, the inability to fill vacancies, a decrease in property transactions and the weak economy have influenced the lower number of NFAs issued this year.

Approximately 77% of the properties participating in the VCPRP are from three industrial categories, including the oil and gas industry (27% of the total), manufacturing (20%) and agribusiness (29%). Participation by other categories includes commercial (13%), railroad (6%), government (3%) and private citizen (2%). Approximately 75% of all properties participating in the VCPRP involve groundwater contamination, which typically requires years to cleanup.

Tables 1 and 2 below summarize the number of applicants, the general categories of those applicants and the number of voluntary actions completed pursuant to K.S.A. 65-34,161 through 65-34,174. Figure 1 depicts the percentage of applications received relative to applicant category and Figure 2 depicts the cumulative voluntary actions within the VCPRP.

**TABLE 1**  
**SUMMARY OF VOLUNTARY APPLICATIONS**

Applicant Category	Contaminant Class Category*				Total Applications
	Class I	Class II	Class III	Class IV	
Agri-Business	2	21	71	77	171
Industry	16	16	54	34	120
Commercial	29	9	34	8	80
Oil/Gas Related	0	29	79	57	165
Governmental Entity	1	7	8	3	19
Private Citizen	7	5	2	1	15
Railroad Related	0	1	21	15	37
<b>Class Category Total</b>	<b>55</b>	<b>88</b>	<b>269</b>	<b>195</b>	<b>607</b>

**\*Definition of Classes:**

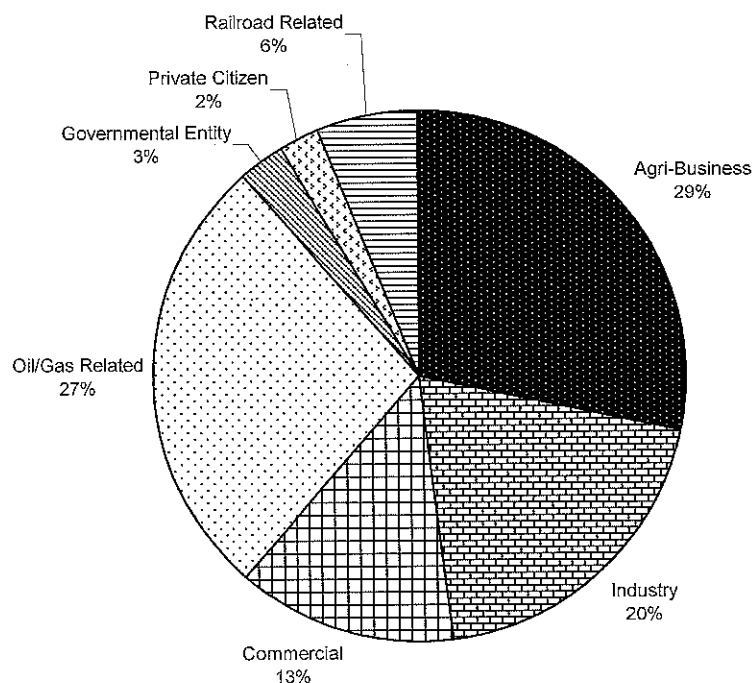
*Class I* - means suspected or confirmed contamination is determined to exist on the eligible property, and the eligible property is not a source of contamination or is located adjacent to a property with a known source of contamination.

*Class II* - means suspected or confirmed soil contamination is determined to exist on the eligible property, there is no known or suspected soil contamination migrating off the eligible property and there is no known or suspected ground water contamination.

*Class III* - means suspected or confirmed soil or ground water contamination, or both, is determined to exist on the eligible property, and there is no known or suspected soil or ground water contamination that has migrated off the eligible property.

*Class IV* - means suspected or confirmed soil or ground water contamination, or both, and the contamination exists on and off the eligible property.

**Figure 1: Applicant Categories by Percentage of Participation**



**TABLE 2**  
**SUMMARY OF VOLUNTARY ACTIONS**

Cumulative Voluntary Action Totals

Type of Voluntary Action	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998	1997
Applications Denied/Withdrawn	41	33	32	29	24	13	10	10	9	5	4	2	1	1	0
Applications Approved	607	581	539	502	481	416	376	353	300	265	219	173	100	56	6
Voluntary Agreements Signed	595	569	529	493	469	409	372	341	298	259	206	162	96	46	3
Vol. Investigations Initiated	524	505	466	446	408	362	331	306	271	230	156	114	57	19	0
Vol. Investigations Completed	359	332	306	283	255	226	208	171	133	121	83	41	23	5	0
Voluntary Cleanups Initiated	216	203	197	187	169	147	135	124	104	74	39	27	17	3	0
Voluntary Cleanups Completed	68	66	61	50	48	40	29	25	21	15	11	6	2	0	0
No Further Actions Issued **	224	217	190	166	152	139	113	92	69	58	38	16	7	3	0

Prior year data are from Annual Report to Legislature for respective year.

\*\* Cumulative Totals Revised as of 12-1-09

**Figure 2: Voluntary Actions**

